

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15698 of the Exxon Company, U.S.A. (division of Exxon Corporation), pursuant to 11 DCMR 3108.1, for a special exception under Subsection 726.1 to establish a new gasoline station and convenience store in the C-2-A and C-M-3 districts at premises No. 1 Florida Avenue, N.E. (Square 668, Lot 91).

HEARING DATE: September 16, 1992

DECISION DATE: October 7, 1991 and September 8, 1993

DISPOSITION: The Board **GRANTED** the application by a vote of 4-0 (Angel F. Clarens, Sheri M. Pruitt, Paula L. Jewell and Carrie L. Thornhill to grant). The Board **APPROVED** a **MODIFICATION** of **PLANS** by a vote of 4-0 (Carrie L. Thornhill, Paula L. Jewell, Sheri M. Pruitt and Angel F. Clarens to approve)

FINAL DATE OF ORDER: February 19 and November 18, 1993

MODIFICATION ORDER

The Board granted the application subject to four conditions by its order dated February 19, 1993. Condition No. 1 of the order provided that construction of the new Exxon facility be as set forth in the plans marked as Exhibit No. 8 of the record except as modified by the remaining conditions set forth in the Board's order.

By its order, dated November 18, 1993, the Board approved a modification of the originally approved plans allowing for expansion of the proposed building to accommodate interior improvements necessary to make the facility comply with the requirements of the Americans with Disabilities Act.

By letter dated July 18, 1994, counsel for the applicant requested the Board to waive the provisions of 11 DCMR 3335.3 to accept a motion for modification of plans more than six months after the final date of the Board's written order. In support of the request, counsel for the applicant noted that the project has been diligently pursued since the issuance of the Board's orders and that a permit application had been timely filed and was currently being processed. Counsel argued that the denial of the waiver would force the applicant to file a new application before the Board for the consideration of a slight amendment to the approved site plan and would result in delay of the project which represents a significant corporate investment in the North Capital Street corridor. The Board

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granted the request to waive the six-month filing requirement and to accept the motion for modification of plans at its public meeting of July 29, 1994.

In support of its motion for modification of plans, counsel for the applicant indicated that, due to reevaluation of the economic viability of the project, the applicant determined that the existing tank field need not be replaced. In order to maintain and utilize the existing tank field, the applicant proposes to eliminate one of the six new gasoline pumps approved by the Board and to reconfigure the approved canopy to allow for future access to the tank field. There was no opposition to the request for modification of plans.

The Board waived Subsection 3335.6 of the Board's Rules which provides that no member shall vote on a request for modification of plans unless the member participated in and voted on the original decision. The membership of the Board has changed since the original decision in this application. Those Board members who did not participate in the original decision on this application were provided with copies of the transcript and record of the subject case for review prior to consideration of the motion for modification.


Upon review of the request for modification, the record of the case, and its final order, the Board concludes that the proposed modification of plans is minor in nature and does not change the material facts relied upon by the Board in deciding the application. The special exception as originally approved is unaltered. No additional zoning relief is required. It is therefore **ORDERED** that the proposed modification is **APPROVED** as shown on the plans marked as Exhibit No. 30A of the record. In all other respects, the orders of the Board dated February 19, 1992 and November 18, 1993, shall remain in full force and effect.

**DECISION DATE:** July 29, 1994

**VOTE:** 3-0 (Angel F. Clarens, George Evans and Laura M. Richards to grant; Craig Ellis not present, not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

**ATTESTED BY:**

  
MADELIENE H. ROBINSON  
Director

**FINAL DATE OF ORDER:** AUG 10 1994

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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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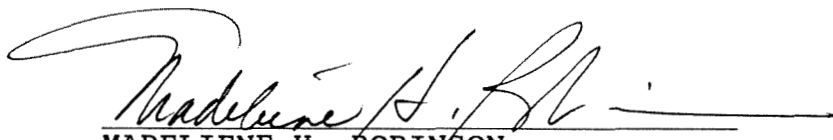
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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 10 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE H. ROBINSON  
Director

DATE: AUG 10 1994